IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 626/2005

1 Vikrant Mohan Jauhari
2. Swadesh Mohan Jauhari
3 Yogehs Mohan Jauhari
All sons of Sri B.M. Jauhari
R/o Khera Colony
PS & Town Rudrapur
District Udham Singh Nagar, Applicants

Versus

1. Smt. Uma Gakkhar
w/o Sri Satish Kumar Gakkhar
r/o Main Road
Avas Vikas Colony,
PS & Town Rudrapur
District Udham Singh Nagar.

2. State of Uttaranchal
through SHO PS Rudrapur
District Udham Singh Nagar respondents

Hon'ble B.C. Kandpal, J

This petition under Section 482 Cr.P.C has been filed by the petitioners for quashing the proceedings of the Criminal Complaint case No. 9390 of 2003 Smt Uma Gakkhar versus Vikrant Mohan Jauhari and others under Sections 323,393,307,506,394,351,357,504 IPC pending in the court of Chief Judicial Magistrate ,Rudrapur.

Heard Sri Sudhir Kumar , learned counsel for the applicants and learned AGA and perused the record .

The record reveals that a complaint was filed by opposite party No.1 Smt. Uma Gakkhar against the petitioners before the court of learned Judicial Magistrate ,Rudrapur under Sections

323,393,307,506,394,351,357,504 IPC . Respondent No.1 in support of the complaint examined herself and got her statement recorded under Section 200 of the Code of Criminal Procedure. Thereafter the respondents also examined her witnesses under Section 202 of Cr. P. C.

The learned Judicial Magistrate vide order dated 18.4.1998 summoned the petitioners for facing trial. Thereafter the proceedings in the case are going on before the court concerned. However, petitioners have filed this petition for quashing criminal complaint case at this stage.

It is pertinent to mention here that the summoning order was passed in the year 1998 and this petition has been filed after a period of about seven years. This petition has been filed for quashing criminal complaint case which appears to be nothing but the delaying tactics for lingering the matter pending before the court below.

Learned counsel for the petitioner has also submitted that the allegations made in the complaint do not disclose commission of any offence under Section 307 IPC and the entire proceedings of the complaint case are absolutely false and are an abuse of process of the court. It is also submitted by the petitioners that the order passed by the learned court below is non-speaking order about the commission of offence under Section 307 IPC.

The arguments advanced by the learned counsel for the petitioners appears to be devoid of any force as on the consideration of the allegations made in the complaint and in the light of the statement of the complainant as well as the witnesses examined by the complainant, it appears that the ingredients of the offence are disclosed and there is no material to show that the complaint is malafide, frivolous and vexatious.

I am not supposed to assume the role of trial court and embark upon the inquiry as to the reliability of the evidence and sustainability of accusation on reasonable appreciation of such evidence.

I do not find any abuse of process of the court at this stage The application under Section 482 Cr.P.C is devoid of any merit and is liable to be dismissed.

Accordingly the application is dismissed in limine.

(B.C. Kandpal, J.)

21.09.2005
nbj